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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,267	09/22/2003	Ola Winzell	0119-129	7760

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EXAMINER	
KARIKARI, KWASI	
ART UNIT	PAPER NUMBER
2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/666,267	WINZELL, OLA	
	Examiner	Art Unit	
	Kwasi Karikari	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 September 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-18 and 20-23* is/are rejected.

7)☐ Claim(s) *7,19 and 24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 September 2003 and 14 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/22/03 and 03/31/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 09/22/2003 and 03/31/2005 are in compliance with the provision of 37 CFR 1.97, has been considered by the Examiner, and made of record in the application file.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed subject matter in the instant application fails to define a result in the process that is being claimed. The Examiner has determined that claim 1 and the claims that depend thereof, fails to provide a practical application that produces a useful, tangible and concrete result. Claim 21 provides evidence that claim 1 constitute a disembodied computer algorithm or steps. Appropriate corrections are required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 8-18 and 20-23 are rejected under U.S.C. 103(a) as being unpatentable over Tran et al., (U.S 20030156573 A1), (hereinafter Tran) in view of Gopalakrishnan et al., (U.S 20040085936 A1), (hereinafter Gopalakrishnan).

Regarding **claims 1, 8 and 21,** Tran discloses a method/ apparatus and program in a medium of determining whether to decode a packet comprising:

determining a channel quality indication during a period of time (see Par. [0016]);

receiving a packet during the period of time (see Par. [0030]);

determining whether to the decode the received packet based on the determined channel quality indication (see Par. [0021]); but fails to disclose a transport format.

However Gopalakrishnan teaches a transport format (see Par. [0007]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Gopalakrishnan with the system of Tran for the benefit of achieving a system that include Adaptive Modulation and Coding technologies to improve system capacity (see Gopalakrishnan, Par. [0007]).

Regarding **claims 2, 9 and 22,** as recited in claims 1, 8 and 21, Tran further discloses that the method/apparatus and program in a medium, further comprising: transmitting a negative acknowledgment when it is determined not to decode the packet (see Pars. [0021 and 0037]).

Regarding **claims 3 and 10,** as recited in claims 1 and 8, Tran discloses that the method/apparatus, further comprising:

determining a second channel quality indication during a second period of time (when channel conditions are good or poor, see Pars. 0016 and 0020);

receiving a second packet during the second period of time (see Par. [0021]);

determining whether to jointly decode the packet and the second packet based on the determined second channel quality indication (see Pars. [0021 and 0037]); but fails to disclose a second transport format.

However Gopalakrishnan teaches a transport format (see Par. [0007]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Gopalakrishnan with the system of Tran for the benefit of achieving a system that include Adaptive Modulation and Coding technologies to improve system capacity (see Gopalakrishnan, Par. [0007]).

Regarding **claim 4,** as recited in claim 3, Tran further discloses the method, wherein the determination of whether to jointly decode is also based on whether the second

packet is a retransmission of the packet (see Pars. [0021 and 0040]).

Regarding **claim 5,** as recited in claim 1, Tran further discloses the method, wherein if it is determined to decode the received packet, the method further comprises:

decoding the packet (see Par. [0040]);

performing a packet integrity evaluation on the decoded packet; and transmitting an acknowledgment if the packet integrity evaluation is successful (packet is successful decode, see Par. [0040]) and

transmitting a negative acknowledgment if it is determined that the packet integrity evaluation fails (see Pars. [0040]).

Regarding **claims 6, 18 and 23** as recited in claims 1,8 and 21 Tran fails to disclose the method/apparatus/program in a medium, wherein the transport format comprises a particular coding format and a particular modulation.

However Gopalakrishnan teaches that the transport format comprises a particular coding format and a particular modulation. (see Par. [0007]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Gopalakrishnan with the system of Tran for the benefit of achieving a system that include Adaptive Modulation and Coding technologies to improve system capacity (see Gopalakrishnan, Par. [0007]).

Regarding **claim 11,** as recited in claim 10, Tran further discloses the apparatus,

wherein the determination of whether to jointly decode is also based on whether the second packet is a retransmission of the packet (see Pars. [0021 and 0040]).

Regarding **claim 12,** as recited in claim 8, Tran further discloses the apparatus, wherein the processor comprises a first processor which determines the channel quality indication, and a second processor which determines whether to decode the received packet (see Pars. [0021 and 0040]).

Regarding **claim 13,** as recited in claim 8, Tran further discloses the apparatus further comprising: a decoder which decodes the received packet when it is determined that the received packet should be decoded (see Pars. [0021 and 0040]).

Regarding **claim 14,** as recited in claim 13, Tran further discloses that the apparatus, wherein the decoder is a Turbo decoder (see Fig. 1, item 54).

Regarding **claim 15,** as recited in claim 13, Tran further discloses that the apparatus, wherein the processor comprises the decoder (see Par. [0021]).

Regarding **claim 16,** as recited in claim 13, Tran further discloses that the apparatus, wherein the apparatus is a wireless radio transceiver (mobile station 12, includes apparatus 42, see Par. [0033]).

Regarding **claim 17,** as recited in claim 13, Tran further discloses that the apparatus, further comprising:

a packet integrity evaluator which evaluates the integrity of the decoded packet (see Par. [0040]), wherein the transmitter transmits an acknowledgment if the packet integrity evaluation is successful (see Par. [0040]); and the transmitter transmits a negative acknowledgment if it is determined that the packet integrity evaluation fails (see Par. [0040]).

Regarding **claim 20,** as recited in claim 8, Tran fails to disclose the apparatus, wherein the apparatus operates according to High-Speed Downlink Packet Access (HSDPA).

However Gopalakrishnan teaches that the apparatus operates according to High-Speed Downlink Packet Access (HSDPA) (see Par. [0009]).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Gopalakrishnan with the system of Tran for the benefit of achieving a system that include Adaptive Modulation and Coding technologies to improve system capacity (see Gopalakrishnan, Par. [0007]).

Allowable Subject Matter

5. Claims 7,19 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lui et al. (U.S. 20040062192 A1) teaches a method of power allocation and rate control in OFDMA systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kwasi Karikari
Patent Examiner.

TEMICA BEAMER
PRIMARY EXAMINER